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ONTARIO WOMEN'S DIRECTORATE

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ONTARIO LABOUR LEGISLATION OF INTEREST TO WOMEN

SEX DISCRIMINATION IN EMPLOYMENT

Equal Opportunity

The Ontario *Human Rights Code* (amended 1981) guarantees to every person the right to equal treatment with respect to employment, and with respect to membership in any trade union or self governing profession, without discrimination because of sex, marital status or family status. Classifying a job as 'male' or 'female' or maintaining separate seniority lists based on sex, marital status or family status violates the Code.

Advertisers may not place and newspapers may not print advertisements indicating, directly or indirectly, that sex or marital status is a job qualification. Help-wanted columns segregated according to sex are prohibited. Similarly, employers may not place and employment agencies may not receive job orders restricted to one sex.

Persons who believe that they have been discriminated against in employment because of their sex, marital status or family status should contact the Ontario Human Rights Commission, Ministry of Labour. Complaints may be filed on behalf of another person with her consent. Reprisals against an employee who has made, or may make, an inquiry or complaint under the Code are prohibited.

Equal Pay

The equal pay provisions of the *Employment Standards Act* state that:

No employer or person acting on behalf of an employer shall discriminate between a male and female employee by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or vice versa, for substantially the same work performed in the same establishment, the performance of which requires substantially the same skill, effort and responsibility and which is performed under similar working conditions, except where such payment is made pursuant to:

- (a) a seniority system,
- (b) a merit system,
- (c) a system that measures earnings by quantity or quality of production; or
- (d) a differential based on any factor other than sex.

Any woman who has reason to believe that she is receiving less pay than a man in her company for doing substantially the same kind of work should bring it to the attention of the Employment Standards Branch of the Ministry of Labour. Her name will not be revealed to her employer. In addition, field officers of the Employment Standards Branch make routine inspections.

Wages withheld in violation of this provision can be recovered in the form of unpaid wages, under the supervision of the Ministry of Labour, up to a maximum of \$4,000 per person.

This law covers all women employed in Ontario except those working in federally regulated industries such as railways, airlines, banks, shipping companies and radio and television stations.

Fringe Benefits

Section X of the *Employment Standards Act* prohibits a differentiation based on age, sex or marital status in pension and life insurance plans and long and short-term disability insurance schemes including health and dental plans. However, certain differences based on actuarial computations are permitted in some types of plans.

Pregnant women are entitled to all benefits covering sickness and disability that occur outside their pregnancy leave of absence. No distinction may be made between complications resulting from pregnancy and other illness for the purpose of sick leave coverage outside the period of pregnancy leave.

Pensionable ages may be set below 65 years, providing that the same is set for men as for women.

Sexual Harassment

The Ontario *Human Rights Code* prohibits sexual harassment. The Code states that every person has the right to be free from:

- (a) harassment in the workplace by the employer, agent of the employer or by a co-worker; or in accommodation or by the landlord, agent of the landlord, or a co-tenant. Harassment is defined as a 'course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.' Examples of this type of behaviour are unwelcome sexual remarks or physical contact.
- (b) an unwelcome sexual solicitation or advance by a person who could confer, grant or deny a benefit or advancement. Advances from a supervisor to an employee or from a teacher to a student are examples of this kind of behaviour.

(c) a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.

Any person who has been the victim of sexual harassment should contact the nearest office of the Ontario Human Rights Commission to file a complaint. If more than one employee has suffered harassment, each one should file a complaint with the commission. In addition, the Women's Bureau may be contacted for advice and assistance.

WAGES, HOURS OF WORK AND BENEFITS

Minimum Wage

The general minimum wage in Ontario is \$4.00 per hour. It applies to both men and women and to both full-time and part-time employees.

There are variations to the minimum wage in some industries and occupations. Persons serving liquor in licensed premises must receive a minimum of \$3.50 per hour. Different rates are set for students under 18 years of age, learners, construction workers and ambulance drivers.

Where employees are employed on the basis of receiving meals and/or room as part of their wages, maximum allowable deductions are also set out in the *Employment Standards Act*. Further information is available from branch offices of the Employment Standards Branch.

It is unlawful for an employer to hire a person as a learner or trainee at no pay during the training period. The law requires that learners be paid at an hourly rate of \$3.90 during their first month of employment and at the general minimum wage thereafter.

Employees who are required by their employer to report to work shall be paid for at least three hours at the minimum wage, unless they were specifically hired to work less than three hours a day or are students.

Employees who believe that they are being paid less than the minimum rate provided for by law should contact the Employment Standards Branch.

Similarly, a person who is not paid for work done should notify the Employment Standards Branch, which has the authority to collect unpaid wages, including overtime pay and vacation pay, up to a maximum of \$4,000 for each employee.

Statement of Earnings and Deductions

At the time wages are paid, the employer must provide employees with a written statement showing the period of time for which the wages are paid, the rate of wages and total amount, a list of deductions and the reasons for them, and the net amount being paid.

Hours of Work

The maximum work week allowed by law is 48 hours for both men and women in Ontario. This does not apply to supervisors and certain kinds of professional workers. In some cases, a permit to work longer hours may be obtained by the employer from the ministry. The permit allows up to 100 hours of overtime per employee per year.

Overtime Pay

Employees who work more than 44 hours in any week or who work on a statutory holiday shall receive a minimum of 1½ times their regular wage rate.

Special overtime regulations cover seasonal employees in the hotel, restaurant and canning industries among others. For information, call the Employment Standards Branch.

Meal Periods

After every five hours of work, an employee shall be given a meal period of at least one half-hour. Coffee breaks during a shift are not required by law, but are a matter of company policy.

Night Work

An employer is no longer required to provide transportation for female employees who work between midnight and six a.m. Females under 18 are now permitted to work after midnight.

Cash Shortage

Cash lost due to error or theft cannot be deducted from wages, even with the employee's written consent, if two or more people have access to the cash.

VACATIONS AND LEAVES OF ABSENCE

Vacations with Pay

Employees who have been employed for 12 months are entitled to an annual vacation of two weeks with pay. The amount of vacation pay must be equal to at least four per cent of the total pay of the employee during the year for which the vacation is given.

The employer has the right to determine the period when an employee may take her vacation, and in the case of a two-week vacation, the employer can also determine if the weeks are to be taken consecutively or in periods of one week each.

When employees cease to be employed before completing their first full working year, they are entitled to vacation pay of four per cent of their total pay during the period of employment.

Statutory Holidays

Employees are entitled to seven statutory holidays with pay: New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day and Christmas Day.

To qualify for a paid statutory holiday an employee must be employed for three months immediately prior to the holiday, work 12 of the 28 days preceding the holiday and work her regular day of employment preceding and following the holiday.

Sick Leave

There is no provision in Ontario's labour law for sick leave. It is a matter of individual company policy or collective agreement whether or not sick employees are entitled to time off with pay. Sick benefits are now available under the *Unemployment Insurance Act*. For details, contact the nearest Canada Employment Centre.

Pregnancy Leave

When an employee is eligible for pregnancy leave, the *Employment Standards Act* protects her from being fired for pregnancy and provides a flexible 17-week unpaid leave of absence. Any woman, married or unmarried, who has at least one year and 11 weeks of service with an employer prior to the expected date of delivery is eligible for leave. The employee must give two weeks' written notice of the date she intends to begin her leave.

All employers in Ontario are bound by this law, except companies or agencies under the jurisdiction of the federal government, such as banks, railways, airlines and similar industries of inter-provincial concern whose employees are guaranteed pregnancy leave under the federal Canada Labour Code.

The employee is entitled to begin her leave of absence at any time within eleven weeks before the expected date of birth. No pregnant employee can be compelled, either by her employer or by a collective agreement, to begin her leave earlier than she intends. However, the employer may initiate the leave earlier if he or she can show that the employee cannot manage her normal work load adequately.

Regardless of when she begins her leave, the employee is entitled to a fixed minimum of six weeks after the actual date of the birth. If a woman wishes to return to work earlier than six weeks after the birth, she must give her employer one week's notice and a doctor's certificate stating that she is fit to return to work.

The Act ensures the pregnant employee's right to return to the same or comparable job without loss of seniority or benefits, or drop in salary. Pregnancy leaves of longer than 17 weeks may be arranged with the employer or provided by collective agreements, but in such cases the type of job to which the employee will return is beyond the jurisdiction of the legislation and is also open to negotiation. For more information, see the Women's Directorate's pamphlet 'Pregnancy Leave in Ontario'.

If a woman qualifies for unemployment insurance during pregnancy leave, she may receive up to 15 weeks' benefits. To find out if you are eligible for benefits, contact the Canada Employment Centre closest to you.

HEALTH AND SAFETY

Health and Safety at the Workplace

The *Occupational Health and Safety Act* protects workers from health and safety hazards. Under the Act, employers and workers share responsibility for identifying hazards and taking steps to reduce or eliminate them.

Workers can refuse to perform work which they believe to be dangerous, and a Ministry of Labour inspector must be called to investigate if the situation is not resolved by the employer.

The Act provides for the establishment of joint health and safety committees in establishments with 20 or more workers and for the appointment of health and safety representatives where required. In addition, Ministry of Labour inspectors routinely visit all workplaces with serious accident or illness records.

The Act protects workers from exposure to chemical, physical and biological substances, such as lead, bacteria, noise, vibration and vinyl chloride monomer, that could affect their health.

Further information can be obtained from the Standards and Programs Branch, Ministry of Labour, 400 University Avenue, Toronto, Ontario M7A 1T7, telephone 965-8710.

Rest Areas

If 35 or more persons are employed or if there is any exposure to a substance that is poisonous by ingestion, an employer must provide a separate place for employees to eat in.

When 10 or more workers are employed, the employer must provide a rest room or other private place with one or more cots and chairs.

The company must supply adequate toilets and washbasins, depending on the number of employees.

More information about other health and safety regulations is available from the Industrial Health and Safety Branch.

First Aid

Requirements for first aid services and facilities depend on the number of employees in the workplace. For details, check the First Aid Regulations under the *Workers' Compensation Act*.

Injury

Under the *Workers' Compensation Act*, most employers must insure their employees through the Workers' Compensation Board against injuries that happen on the job or as a result of employment. (Barbering and hairdressing establishments, financial institutions and photography studios are among those businesses *not* compulsorily covered.)

Medical expenses, compensation for income lost during temporary total disability and pensions for permanent disability may be paid by the board to injured workers. Special medical and rehabilitation services may be provided to enable the individual to return to useful work as soon as possible.

The employer must report industrial injuries promptly to the Workers' Compensation Board. For more information, contact the Workers' Compensation Board, 2 Bloor Street East in Toronto, or your nearest regional office.

TERMINATION OF EMPLOYMENT

Under the *Employment Standards Act*, an employee who was employed for at least three months and is fired or has been laid off for 13 weeks or more is entitled to written notice of termination. The minimum amount of notice depends on how long the worker has been employed, as follows:

| Period of Employment | Notice Required |
|----------------------|-----------------|
| Less than 2 years | 1 week |
| 2-5 years | 2 weeks |
| 5-10 years | 4 weeks |
| 10 years or more | 8 weeks |

After giving written notice, the employer must either continue to employ the employee until the period of notice has expired or terminate the employee immediately, and pay her what she would normally have earned, without overtime, if she had worked out the required period of notice. Longer periods of notice are required in collective dismissals involving 50 or more employees.

UNIONS

The Right to Join a Union

Under the *Labour Relations Act*, every employee has the right to join a union except those working in certain occupations such as architecture, law and medicine, and those working in a managerial capacity, domestic service or agriculture. (Police, firefighters, teachers and Crown employees are permitted to bargain collectively under other acts).

If an employer has fired a worker because she has joined or attempted to organize a union in a non-union shop, the Labour Relations Board will order reinstatement and/or compensation. The Labour Relations Board is located on the 4th Floor, 400 University Avenue, Toronto, Ontario M7A 1T7, telephone 965-4151.

Union Dues

In a unionized place of employment, an employee does not have to join the union unless the collective agreement stipulates it. However, all employees in the bargaining unit represented by the union may be required by law to pay union dues.

DOMESTIC WORK AND HOMEWORK

Homeworkers are covered by the laws pertaining to the minimum wage, vacations with pay, equal pay for equal work and collection of wages.

Domestics and homemakers who work for agencies are covered by all provisions of the *Employment Standards Act*.

Domestics employed by a householder for more than 24 hours a week are entitled to a minimum of 36 consecutive hours of free time weekly; two weeks' annual paid vacation; seven paid statutory holidays and minimum wages of \$32 per day, \$176 per week, \$757 per month or \$4 per hour. A maximum of \$55 per week may be deducted from a domestic's wages for room and board. Babysitters and companions of the sick and elderly are not covered by these provisions.

HUMAN RIGHTS IN ONTARIO

Ontario Human Rights Code (amended 1981)

As well as guaranteeing the right to equal treatment in employment without discrimination because of sex and marital status, the Code also bans discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, record of offences, marital status, family status or handicap. Age is defined as from 18 to 65 years.

Discrimination with respect to membership in a trade union or self-governing profession on any of these grounds (except record of offences) is prohibited. It is also illegal to discriminate against or to harass someone in accommodation because she is receiving public assistance such as welfare.

Equal Opportunity in Education

Section 1 of the *Human Rights Code* states that every person has a right to equal treatment with respect to services, goods and facilities without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status or handicap.

This right to equal treatment with respect to services, etc. includes education and training programs in schools, universities and other educational institutions. Persons who believe they have been discriminated against in an education or training program because of their sex or because of any other prohibited ground of the Code, should contact the Ontario Human Rights Commission.

The Ontario Human Rights Commission and the Employment Standards Branch have district offices in the following cities:

| | Area Code | Human Rights | Employment Standards |
|--------------------------------------------------------|----------------------|-------------------------|---------------------------------|
| Hamilton 119 King St. W. L8N 3Z9 | 416 | 527-7738 | 527-7740 |
| Kenora 808 Robertson St. P9N 1X9 | 807 | 468-3128 | 468-3128 |
| Kingston 1055 Princess St. K7L 1H3 | 613 | 547-3414 | 547-3414 |
| Kitchener 824 King St. W. N2G 1G1 | 519 | 744-8101 | 744-8101 |
| London 205 Oxford St. E. N6A 5G6 | 519 | 439-3231 | 439-3231 |
| Mississauga 2 Robert Speck Pkwy. L4Z 1H8 | 416 | 273-7811 | 273-7808 |
| Ottawa 2197 Riverside Dr. K1H 7X3 | 613 | 523-7530 | 523-7530 |
| Sault Ste. Marie 390 Bay St. P6A 1X2 | 705 | 949-3331 | 949-3331 |
| St. Catharines 205 King St. L2RF 3J5 | 416 | 682-7261 | 682-7261 |
| Scarborough 2500 Lawrence Ave. E. M1P 2R7 | 416 | 750-3575 | 750-3556 |
| Sudbury 199 Larch St. P3E 5P9 | 705 | 675-4455 | 675-4455 |
| Thunder Bay 435 James S. S. P7E 6E3 | 807 | 475-1693 | 475-1691 |
| Timmins 273 3rd Ave. P4N 1E2 | 705 | 267-6231 | 267-6231 |
| Toronto 400 University Ave. M7A 1T7 | 416 | 965-6841 | 965-5251 |
| Windsor 500 Ouellette Ave. N9A 1B3 | 519 | 256-8278 | 256-8278 |

OTHER PUBLICATIONS AVAILABLE

Pregnancy Leave in Ontario

Informs employers and employees about the law governing pregnancy leave. Also available in French, Portuguese, Italian, Greek, Spanish, Cree and Chinese.

Your Rights as a Worker in Ontario

Answers some of the basic questions a worker in Ontario may have regarding rights and responsibilities in the workplace. Also available in French, Italian, Portuguese, Chinese, Greek, Spanish, Vietnamese and Punjabi.

Women in the Labour Force

A series of fact sheets. 'Fact and Fiction' refutes some of the most common misconceptions about women in the workforce. Fact sheets on 'Unions', 'Education', 'Basic Facts' and 'Child Care' are also available.

Career Selector

Series of seven booklets giving descriptions of training requirements and career opportunities in a wide variety of occupations.

Job Search

A self-help handbook designed to assist women who are seeking employment. It provides a step-by-step guide to choosing an occupation and developing an organized and assertive job search strategy. Also available in French.

New Skills for Women: Technology and the Skilled Trades

A brochure answering some of the most common questions relating to training and jobs in the skilled trades and technology. Also available in French.

But...What Else Can a Woman Be?

A collection of recent newspaper stories about young women in a wide spectrum of non-traditional careers.

Resource Centre

Open to the public for research purposes from 9:00 a.m. to 5:00 p.m. Monday to Friday.

The Resource Centre contains:

- books, pamphlets, articles and bibliographies on subjects relating to working women;
- catalogued selection of submissions to the Royal Commission on the Status of Women in Canada;
- films about women and work; available on loan to groups free of charge.



Ontario Women's Directorate

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